



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,581	08/03/2001	Alfred D. Commins	SST/1148	9692

498                      7590                      06/03/2003

JAMES R. CYPHER  
405 14TH STREET  
SUITE 1607  
OAKLAND, CA 94612

EXAMINER

YIP, WINNIE S

ART UNIT                      PAPER NUMBER

3637

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

8

**Office Action Summary**

<b>Application No.</b> 09/922,581	<b>Applicant(s)</b> COMMINS ET AL.	
<b>Examiner</b> Winnie Yip	<b>Art Unit</b> 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 22 January 2003.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 35-51 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 35-51 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All b)  Some \* c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.
- 4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

Art Unit: 3637

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on January 22, 2003 has been entered.

2. The indicated allowability of claims 1 and 3-51 are withdrawn for further consideration as discussed follow.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3637

4. Claims 40-44, 46, 48-51 rejected under 35 U.S.C. 102(e) as being anticipated by Timmerman, Sr. et al. (US Patent No. 6,158,184).

Timmerman, Sr. et al. discloses a wall comprising a bottom plate (20) resting on the underlying structural component/ a standoff plate (11) or a foundation (4) , a plurality of vertically-disposed studs (26, 114) resting on and connected to the bottom plate, a top plate (110) resting on and connected to the vertically-disposed studs, a shear-resisting assembly connected to and disposed between to the top plate and underlying structural component, the shear-resisting assembly including a top strut (16, or 534), a bottom strut (20, or 536), a first chord (22, or 533), a second chord (24, or 535) , a planar shear-resisting element secured to and covering the edges of the top strut, the bottom strut, and first and second chords, a first and second foundation anchors (12) having holdowns (6, 8) and nut/bolts (30, 31) to anchor the chords to the underlying structural component respectively, and fasteners (537) having a threaded shank portion being inserted through the top strut of the shear resisting assembly to connect the shear-resisting element to the top plate (36) of the wall, and other fasteners being used inserted through the bottom strut to secure the shear-resisting assembly directly resting on the underlying structural component of the building, and the first and second chords resting directly on the underlying structural component (11).

Regard to claim 46, Timmerman, Sr. et al. further teaches the planar shear-resisting element having a boundary edging members (541) disposed on first and second side edges of the shear-resisting element and being pierced by shank portions of the edge fasteners (544) and strengthen the connection made by the edge fasteners.

Art Unit: 3637

Regard to claim 50, Timmerman, Sr. et al. further teaches the shear-resisting element comprising a plurality of adjoining structural panels (654A-654C) disposed in a single plane.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 35-39, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timmerman, Sr. et al. '184 in view of Hardy (US. No. 6,148,583).

The claims are considered to meet by Timmerman, Sr. et al. as explained and applied above rejection except that Timmerman, Sr. et al. does not define the shear-resisting assembly fasteners being inserted through the top strut of the shear-resisting assembly and into the top plate to connect the shear-resisting assembly to the top plate and to the wall. Hardy teaches a wall having a shear-resisting assembly, see Fig. 5, having fasteners inserted through a top strut (10) and into the top plate (36) from the underside of the top strut. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the wall of Timmerman, Sr. et al. having fasteners having threaded shank portions being inserted through the top strut and into the top plate as taught by Hardy for more easily connecting and replacing the shear-resisting assembly to the top plate of the frame.

In regard to claim 45, although Timmerman, Sr. et al. do not show the threaded holdown fasteners being inserted only a selected distance into the chords without passing all the way through the chords as claimed, it would have been obvious design choice to have threaded holdown fasteners inserted a selected distance into the chords without passing all the way through the chords since applicant have not disclosed the inserting the holdown fasteners through the chords solves any stated problems and it appears that the structure would perform equally well to elected holdown fasteners threaded into a selected distance into the chords without passing all the way through the chords as claimed.

2. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Timmerman, Sr. et al. '184 as applied to claim 46 above, and further in view of Charles (US patent No. 4,037,381).

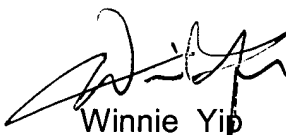
Timmerman et al. do not define the planar shear-resisting element having U-shaped boundary edges being U-shaped channel as claimed. Charles teaches a panel connected to a frame comprising boundary edging members (38) disposed on the edges of the panel to be fastened to the frame. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the planar shear-resisting element of Timmerman et al. having U-shaped boundary edging members disposed on the edges of the panel as taught by Charles for increasing the rigidity of the element.

Art Unit: 3637

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Winnie Yip  
Examiner  
Art Unit 3637

wsy  
June 2, 2003